

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

_____)	
)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil Action No. _____
v.)	
)	
TELEDYNE TECHNOLOGIES)	
INCORPORATED,)	
)	
Defendant.)	
_____)	

CONSENT DECREE

CONSENT DECREE
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I. Background

A. Plaintiff, the United States of America (“United States”), on behalf of the United States Navy (“Navy”), filed a Complaint against Defendant, Teledyne Technologies Incorporated (“Teledyne”), a Delaware Corporation, in this matter pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9607.

B. The United States in its Complaint seeks, *inter alia*: reimbursement of costs incurred by the Navy for Response Actions at the former Naval Weapons Industrial Reserve Plant Toledo (“NWIRP Toledo” or “Facility”) in Toledo, Ohio, together with accrued Interest.

C. The United States has notified the State of Ohio of negotiations with potentially responsible parties regarding the implementation of Response Actions at the Facility, and the United States has provided the State with an opportunity to participate in such negotiations and be a party to this Consent Decree.

D. In accordance with Section 122(j)(1) of CERCLA, 42 U.S.C. § 9622(j)(1), the United States has notified the Department of the Interior of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under federal trusteeship and encouraged the trustee to participate in the negotiations of this Consent Decree.

E. By entering into this Consent Decree, Teledyne does not admit any liability to the United States or any other person for actions arising out of the transactions or occurrences alleged in the Complaint, nor does Teledyne acknowledge that the release or threatened release of hazardous substances at or from the Facility constitutes an imminent or substantial endangerment to the public health or welfare or the environment. Except as necessary to enforce

this Consent Decree, nothing in this Consent Decree shall be admissible to prove liability to the United States for the claims alleged in the Complaint.

F. The United States acquired the Facility in 1942. The Facility transferred to the Navy's property rolls in 1979. Teledyne and its predecessors have been the operators of the Facility since at least 1955 and Teledyne remains the current operator. Teledyne currently designs, develops, tests, and assembles turbine engines at the Facility. The Navy transferred the property via an Economic Benefit Conveyance to the Toledo-Lucas County Port Authority ("Port") in 2003. The Navy retained its responsibility to remediate the property pursuant to Section 120 of CERCLA, as referenced in a Quit Claim Deed to the Port. The Navy has completed certain Response Actions at the Facility. These activities have included a source removal action at the Facility and several studies, the most significant of which included: a Preliminary Assessment ("PA"), an Environmental Assessment, and a Remedial Investigation and Feasibility Study, all performed under the Navy's CERCLA program, the Installation Restoration Program ("IRP"). The Navy has also prepared two Environmental Baseline Surveys ("EBS") in order to identify historical and current environmental conditions of the property. A draft Final Feasibility Study Report was issued by the Navy in August 2006.

G. The Port has agreed to undertake Regulatory Closure using the Ohio Voluntary Action Program ("VAP") at the Facility, under a \$2.45 million grant from the Department of Defense Office of Economic Adjustment ("OEA"). The Port and Teledyne have represented to the United States that the Port will be able to achieve Regulatory Closure at the Facility necessary to complete the Facility's environmental remediation. Teledyne has agreed to complete all actions necessary to obtain Regulatory Closure, as set forth in this Consent Decree,

should the Port not perform remediation that is sufficient to achieve Regulatory Closure.

H. Based on the information available to the United States, the United States believes that the Work will be properly and promptly conducted by Teledyne if conducted in accordance with the requirements of this Consent Decree.

I. The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and implementation of this Consent Decree will expedite the Response Action at the Facility and will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, it is hereby Ordered, Adjudged, and Decreed:

II. Jurisdiction and Venue

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 9607, and 9613(b) and venue is proper in this District pursuant to 28 U.S.C. §1391(b) and (c) and 42 U.S.C. §9613(b). This Court also has personal jurisdiction over Teledyne. Solely for the purposes of this Consent Decree and the underlying Complaint, Teledyne waives all objections and defenses that it may have to jurisdiction of the Court or to venue in this District. Teledyne shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. Parties Bound

2. This Consent Decree applies to and is binding upon the United States and upon Teledyne and its successors and assigns. Any change in ownership or corporate status of Teledyne including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Teledyne's responsibilities under this Consent Decree.

IV. Definitions

3. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

“Consent Decree” shall mean this Decree and all appendices attached hereto (listed in Section XXI). In the event of a conflict between this Decree and any appendix, this Decree shall control.

“Day” shall mean a calendar day unless expressly stated to be a working day. “Working day” shall mean a day other than a Saturday, Sunday, or federal holiday. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

“DOJ” shall mean the United States Department of Justice and any office or subdivision thereof and any successor department or agency of the United States.

“Effective Date” shall be the effective date of this Consent Decree as provided in Section XIX.

“EPA” shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

“Facility” shall mean the former Naval Weapons Industrial Reserve Plant Toledo, consisting of approximately 30 acres of land on West Laskey Road in northern Toledo, approximately one mile from the Ohio/Michigan border, and depicted generally on the map attached as Appendix A. The term also includes any location to which hazardous substances that are the subject of actions that are necessary to achieve Regulatory Closure, have come to be located.

“Federal Contract” shall mean any contract or agreement, including, but not limited to, contract vehicles to facilitate Foreign Military Sales, firm fixed price contracts, and cost plus contracts, with a department, agency, or instrumentality of the United States.

“Interest” shall mean interest at the rate determined pursuant to 28 U.S.C. § 1961.

“Navy” shall mean the United States Navy and any successor departments or agencies of the United States.

“Navy Response Costs” shall mean all costs of removal or remedial action within the meaning of CERCLA §107, including, but not limited to direct and indirect costs that the Navy has paid or will pay in connection with the remediation of hazardous substances at or originating from the Facility through the Effective Date of this Consent Decree, including Interest on all

such costs which has accrued or will accrue through the Effective Date.

“Ohio Covenant Not to Sue” shall mean the covenant given by State of Ohio pursuant to Chapter 3746 of the Ohio Revised Code, and implementing regulation, otherwise known as the Ohio Voluntary Action Program (“VAP”), or Brownfield Program.

“OEPA” shall mean the Ohio Department of Environmental Protection.

“Paragraph” shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper case letter.

“Parties” shall mean the United States and Teledyne.

“Port” shall mean the Toledo-Lucas County Port Authority, a political subdivision and body corporate and politic, duly organized and existing under the law of the State of Ohio, namely Sections 4582.01 through 4582.20 of the Ohio Revised Code, as enacted pursuant to Section 13 of Article VIII of the Ohio Constitution.

“Regulatory Closure” shall mean the issuance and maintenance of an Ohio Covenant Not to Sue for the Facility by the State of Ohio pursuant to Chapter 3746 of the Ohio Revised Code, and implementing regulation, otherwise known as the Ohio Voluntary Action Program (“VAP”), or Brownfield Program. Regulatory Closure shall be achieved in accordance with Memorandum of Agreement OEPA Region V (Appendix B).

“Response Actions” shall mean any removal or remedial action taken at the Facility within the definitions of remove, removal, remedy or remedial action as defined in CERCLA, including actions taken to achieve Regulatory Closure. This definition includes but is not limited to all environmental investigation, characterization, remediation, maintenance, monitoring, and post-closure actions with respect to the Facility.

“Response Costs” shall mean all costs, within the meaning of CERCLA, including, but not limited to, direct and indirect costs, that a Party has paid or will pay in connection with the implementation of Response Actions.

“Section” shall mean a portion of this Consent Decree identified by a Roman numeral.

“State of Ohio,” “State,” or “Ohio” shall mean the State of Ohio and any department, agency, or subdivision thereof.

“TDY Industries, Inc.” (formerly Teledyne Industries, Inc., a California corporation), shall mean the entity identified as Teledyne Industries, Inc. in the Separation and Distribution Agreement By and Among Allegheny Teledyne Incorporated, TDY Holdings, LLC, Teledyne Industries, Inc. and Teledyne Technologies Incorporated dated as of November 29, 1999.

“Teledyne” shall mean Defendant Teledyne Technologies Incorporated d/b/a Teledyne Continental Motors-Turbine Engines.

“Teledyne’s Payment” shall mean the payment to be made pursuant to Section VI of this Consent Decree.

“United States” shall mean the United States of America, including all of its departments, agencies, and instrumentalities.

“Waste Material” shall mean: (1) any “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33), 42 U.S.C. § 9601(33); (3) any “solid waste” under Section 1004(27) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6903(27); and (4) any “hazardous waste” under Ohio Rev. Code. Ann. §3734.01 or “hazardous substance” under Ohio Rev. Code. Ann. §3716.01.

“Work” shall mean all activities Teledyne is required to perform under Section IX of this Consent Decree.

V. General Provisions

4. Objectives of the Parties. The objectives of the Parties in entering into this Consent Decree are to protect public health or welfare or the environment at the Facility through the implementation of the requirements of this Consent Decree, and to resolve the claims of the Navy against Teledyne and the claims of Teledyne which could have been asserted against the Navy with regard to this Facility as provided in this Decree.

5. Commitments of Teledyne. Teledyne shall reimburse the Navy for Navy Response Costs as provided in this Consent Decree and perform the Work in accordance with the requirements of Section IX of this Consent Decree in the event that conditions set forth in Paragraph 15 arise; and comply with all other requirements of the Decree.

6. Compliance With Applicable Law. All activities undertaken by Teledyne pursuant to this Consent Decree shall be performed in accordance with the requirements of all applicable federal and state laws and regulations.

VI. Teledyne's Payment

7. Within 30-days of the Effective Date of this Consent Decree, Teledyne shall remit to the United States \$525,000 in payment for Navy Response Costs. Payment shall be made by one or more FedWire Electronic Funds Transfer to the U.S. Department of Justice account in accordance with current EFT procedures, referencing USAO File Number 2008V00702, and DOJ Case Number 90-11-2-08320. Payment shall be made in accordance with instructions

provided to Teledyne by the Financial Litigation Unit of the U.S. Attorney's Office in the Northern District of Ohio, Western Division following lodging of the Consent Decree.

8. At the time of payment, Teledyne shall send notice that payment has been made to the United States in accordance with Section XVIII. Such notice shall reference the Facility name, DOJ case number 90-11-2-08320, and the civil action number.

9. In the event that the payment required by Paragraph 7 is not made within 30 days of the Effective Date, Teledyne shall pay Interest on the unpaid balance. The Interest under this Paragraph shall begin to accrue on the Effective Date. The Interest shall accrue through the date of Teledyne's Payment. Payments of Interest made under this Paragraph shall be in addition to ~~such other remedies or sanctions available to the United States by virtue of Teledyne's failure to~~ make timely payments under this Section including, but not limited to, payment of stipulated penalties pursuant to Paragraph 10. Teledyne shall make all payments required by this Paragraph in the manner described in Paragraph 10.

VII. Failure to Comply with Consent Decree

10. **Stipulated Penalty.**

a. If any amounts due under Paragraph 7 are not paid by the required date, Teledyne shall be in violation of this Consent Decree and shall pay to the United States, as a stipulated penalty, in addition to the Interest required by Paragraph 9, an amount of \$1,000 per day for days one through fourteen; \$2,500 per day for days fifteen through thirty; and, \$5,000 per day thereafter past the required payment date.

b. Stipulated penalties are due and payable within 30 days of the date of the demand for payment of the penalties by the United States. All payments under this Paragraph shall be

paid by certified or cashier's check and submitted to the United States in accordance with instructions provided in the United States' demand for payment. A transmittal letter shall accompany each payment for stipulated penalties. Each letter shall state the basis for payment of stipulated penalties, and reference the case name and civil action number, U.S.A.O. File No. 2008V00702, DOJ Case No. 90-11-2-08320, and the name and address of the party making payment. Copies of the transmittal letter and check(s) shall be sent on the same day to the United States and Navy in the manner specified in Section XVIII. Such notice shall reference the Facility, DOJ Case Number 90-11-2-08320, and civil action number.

c. Penalties shall accrue as provided in this Paragraph regardless of whether Navy has notified Teledyne of the violation or made a demand for payment. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment.

11. Payments made under this Section shall be in addition to any other remedies or sanctions available to the United States by virtue of Teledyne's failure to comply with the requirements of this Consent Decree.

12. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree. The waiver must be in writing and signed by an official who is authorized to execute such waiver on behalf of the United States. Payment of stipulated penalties shall not excuse Teledyne from payment as required by Section VI or from performance of any other requirements of this Consent Decree.

VIII. Port Response Actions

13. The Parties recognize that the Port intends to achieve Regulatory Closure using a Federal grant, pursuant to the authority of FY 2006 Appropriations Act (P.L. 109-148), administered by the Department of Defense's Office of Economic Adjustment. In the event that the Port fails or is unable to achieve Regulatory Closure, Teledyne shall take all action necessary (including performing all necessary Response Actions) to achieve Regulatory Closure and an Ohio Covenant Not to Sue under Ohio Revised Code Chapter 3746.

14. If the Port has acquired an Ohio Covenant Not to Sue and the Navy has determined that a Covenant Not to Sue has been issued, the Navy will so notify Teledyne in writing. If the Port notifies the Navy that it has failed to achieve Regulatory Closure, or the Port notifies the Navy that it no longer intends to or cannot achieve Regulatory Closure, or the Navy determines that the Port has ceased its attempts to achieve Regulatory Closure for a period of 120 days or more, the Navy will notify Teledyne in writing that it has determined that Regulatory Closure has not been achieved by the Port.

IX. Work Contingency

15. Teledyne's Contingent Obligation to Perform Further Response Actions. If the Port is unable or unwilling to achieve Regulatory Closure as evidenced by the conditions set forth in Paragraph 14, and the Navy has provided notification to Teledyne pursuant to Paragraph 14 that it has determined that Regulatory Closure has not been achieved by the Port, Teledyne will become responsible for all actions necessary to achieve Regulatory Closure ("Work").

16. In the event that Teledyne becomes responsible for the Work, the following provisions shall apply.

17. Submissions of Plans. Teledyne shall, within 60 days of the Navy's notice above, submit a plan to achieve Regulatory Closure to the Navy and to the appropriate State authority. Such plan shall include a description of actions to be taken and milestone dates to achieve Regulatory Closure, and such plan shall be in accordance with the criteria specified in Chapter 3746, Ohio Revised Code, and its implementing regulations. The plan is subject to the State's review, and potential comment and approval. The Navy may provide Teledyne comments in conjunction with the State's comment process. Upon final State approval or other acquiescence to indicate that Teledyne may proceed with work, the plan is then subject to Navy comment and approval. The Navy shall approve or modify the plan within 60 days after Teledyne has provided written notice to the Navy that the State has provided approval or acquiescence. Teledyne shall implement the plan after the Navy's approval or modification. The Navy's approval or modification shall be consistent with the criteria specified in Chapter 3746, Ohio Revised Code, and its implementing regulations.

18. Performance of the Work by Teledyne.

a. Teledyne shall perform fully all remediation to achieve Regulatory Closure, including, but not limited to, any necessary soil or groundwater treatment, all necessary maintenance and monitoring of remedial measures, and the implementation of any post closure care and institutional controls.

b. Teledyne shall provide to the Navy a copy of all information, including, but not limited to, schedules, plans, reports, and data, that Teledyne submits to OEPA in connection with the performance of the Work.

c. In the event that the State initiates any administrative or judicial enforcement

action against Teledyne in connection with the Work or any other release of hazardous substances at the Facility, Teledyne shall notify the Navy of such action within seven days of the initiation of such action.

19. Project Coordinators.

a. Within 20 days of Navy's determination under Paragraph 14, and written notice thereof to Teledyne, that the Port has failed to achieve Regulatory Closure, Teledyne and the Navy will notify each other, in writing, of the name, address and telephone number of its respective designated Project Coordinators. If a Project Coordinator initially designated is changed, the identity of the successor will be given to the other Party at least five working days before the changes occur, unless impracticable, but in no event later than the actual day the change is made.

b. The Navy's Project Coordinator and Teledyne's Project Coordinator will communicate, in person or via conference call, upon the Navy Project Coordinator's request and at the convenience of both Coordinators, but in any event, at a minimum, on a quarterly basis.

20. Facility Access.

a. If the Facility, or any other property where access is needed to implement response activities at the Facility, is owned or controlled by Teledyne, the latter shall, commencing on the date of lodging of this Consent Decree, provide the United States and its representatives, including the Navy and contractors, with access at all reasonable times to the Facility, or to such other property, for the purpose of enforcing this Consent Decree or for conducting any response activity related to the Facility, including, but not limited to, the following activities:

(i) Monitoring, investigation, removal, remedial or other response activities

at or near the Facility;

(ii) Verifying any data or information submitted to the Navy or the State;

(iii) Obtaining samples;

(iv) Assessing the need for, planning, or implementing Response Actions at or near the Facility;

(v) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Teledyne or its agents consistent with Section XVI (Access to Information); and

(vi) Assessing Teledyne's compliance with this Agreement.

~~b.~~ Notwithstanding any provision of this Consent Decree, the Navy retains all of its access authorities and rights, as well as all of its rights to require land/water use restrictions, including enforcement authorities related thereto, under CERCLA and any other applicable statute or regulations.

21. Permits.

a. Where any portion of the Work requires a federal or state permit or approval, Teledyne shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.

b. This Consent Decree is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

22. Reporting Requirements. In addition to any other requirement of this Consent Decree, Teledyne shall submit to the Navy a progress report every six months, with the first report due six months after initiation of Teledyne's Work, that: (a) describes all environmental

remediation performed at the Facility during the prior six months; (b) includes a summary of the results of all sampling and tests and all other data received or generated by Teledyne or its contractors or agents in the previous six months; (c) identifies all work plans, plans, and other reports submitted to OEPA during the previous six months; (d) describes all environmental remediation scheduled for the next six months; and (e) estimates a date for completion of all remaining remedial work as of the date of the report. Teledyne shall submit these progress reports until it receives notice from the Navy pursuant to Paragraph 23 (Certification of Completion).

23. Certification of Completion. Upon completion of all Work by Teledyne, Teledyne shall certify that the Work has been completed by providing a copy of the Ohio Covenant Not to Sue to the Navy.

24. Performance Guarantee.

a. In order to ensure the full and final completion of the Work, Teledyne shall establish and maintain financial security in the amount of the cost to complete the Work at the time Teledyne's Work obligation arises pursuant to Paragraph 15, in such amount as determined by the Navy, in one or more of the following forms:

- (i) A surety bond guaranteeing performance of the Work;
- (ii) One or more irrevocable letters of credit equaling the total estimated cost of the Work;
- (iii) A trust fund;
- (iv) A guarantee to perform the Work by one or more parent corporations or subsidiaries, or by one or more unrelated corporations that have a

substantial business relationship with Teledyne; or

(v) A demonstration that Teledyne satisfies the requirements of 40 C.F.R.

Part 264.143(f).

b. If Teledyne seeks to demonstrate the ability to complete the Work through a guarantee by a third party pursuant to Subparagraph 24.a of this Consent Decree, Teledyne shall demonstrate that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f). If Teledyne seeks to demonstrate its ability to complete the Work by means of the financial test or the corporate guarantee pursuant to Paragraph 24.a, it shall resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date. In the event that the Navy determines at any time that the financial assurances provided pursuant to this Section are inadequate, Teledyne shall, within 30 days of receipt of notice of the Navy's determination, obtain and present to the Navy for approval one of the other forms of financial assurance listed in Subparagraph 24.a of this Consent Decree. Teledyne's inability to demonstrate financial ability to complete the Work shall not excuse performance of any activities required under this Consent Decree.

c. If Teledyne can show that the estimated cost to complete the remaining Work has diminished below the amount established pursuant to Paragraph 24.a above after entry of this Consent Decree, Teledyne may, on any anniversary date of entry of this Consent Decree, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Teledyne shall submit a proposal for such reduction to the Navy, in accordance with the requirements of this Section, and may reduce the amount of the security upon approval by the Navy. In the event of a

dispute, Teledyne may reduce the amount of the security in accordance with the final administrative or judicial decision resolving the dispute.

d. Teledyne may change the form of financial assurance provided under this Section at any time, upon notice to and approval by the Navy, provided that the new form of assurance meets the requirements of this Section. In the event of a dispute, Teledyne may change the form of the financial assurance only in accordance with the final administrative or judicial decision resolving the dispute.

X. Teledyne's Warranties Against Recovery of Certain Costs Incurred

25. This Section applies to Teledyne's Payment under Section VI, any costs for Work required to be performed by Teledyne under Section IX of this Consent Decree, and attorney's fees and related costs.

26. This Section applies whether Teledyne, individually, as a joint venture partner, or under a Teaming agreement, is functioning as a prime contractor or subcontractor.

27. Teledyne's Warranty Against Seeking or Receiving Payment for Any Costs to be Incurred by Teledyne Under this Consent Decree. Teledyne warrants that it shall not seek as an allowable direct or indirect cost in any Federal Contract payment from the United States for any costs to be incurred by Teledyne under Section VI and Section IX of this Consent Decree.

Subject to the penalties of the False Claims Act, 31 U.S.C. § 3729 *et seq.*, and other applicable law, Teledyne hereby certifies to the United States that it will not seek or receive, in any Federal Contract, reimbursement from the United States of any costs to be incurred under this Consent Decree after the Effective Date. Teledyne further agrees, with regard to any Federal Contract, that:

a. Any costs to be incurred under this Consent Decree shall be deemed to be, and shall be identified in Teledyne's accounting system as, "mutually agreed to be unallowable" costs subject to the Federal Acquisition Regulations ("FAR") § 31.201-6 and Cost Accounting Standards ("CAS") § 405 (including any subsequent amendments or modifications to FAR § 31.201-6 and CAS § 405), and thus excluded from any billing, claim, or proposal applicable to a Federal Contract, including, but not limited to, any final billing, final contract cost proposal, or final overhead rate proposal; such amount, however, shall be accounted for and included in the base for computation of Teledyne's G&A rate.

b. Teledyne shall not claim or receive any costs to be incurred under this Consent Decree as allowable costs in any Federal Contract. The Parties do not declare any costs as defined in this agreement as allowable or allocable which are not allowable and allocable under FAR Part 31 and 48 CFR 9904;

c. Teledyne shall not claim or receive payment for any costs to be incurred under this Consent Decree pursuant to any indemnification or hold-harmless provision in any Federal Contract;

d. Teledyne shall comply with CAS § 405 (including any subsequent amendments or modifications to CAS § 405) when accounting for any costs to be incurred under this Consent Decree in any billing, claim, or proposal applicable to a Federal Contract. CAS § 405 shall apply even if Teledyne is not otherwise subject to CAS;

e. Any costs to be incurred under this Consent Decree that are included by Teledyne in any billing, claim, or proposal applicable to a Federal Contract shall be deemed to be costs that have been "determined to be unallowable" within the meaning of FAR § 42.709-1, clause

52.242-3, and related provisions; and

f. Teledyne has submitted attorney's fees and related costs pertaining to environmental remediation at NWIRP Toledo for inclusion in its indirect costs under certain Federal Contracts and has realized a benefit. The Parties reserve all claims and defenses as to all attorney's fees and related costs which Teledyne has claimed as an allowable direct or indirect cost in any Federal Contract payment from the United States prior to the lodging of this Consent Decree. Teledyne agrees not to submit any additional attorney's fees and related costs pertaining to environmental remediation at NWIRP Toledo, including but not limited to attorney's fees and costs incurred in conjunction with the negotiation of this Consent Decree, from the time of lodging of this Consent Decree until the Effective Date. Teledyne shall not submit any additional attorney's fees and related costs associated with complying with this Consent Decree after the Effective Date, including (but not limited to) attorney's fees and costs, incurred by or on behalf of Teledyne and their subsidiaries, officers, directors, agents, and employees if such attorney's fees and related costs pertain to: (1) matters covered in this Consent Decree; (2) the United States audit and investigation of the matters covered by this Consent Decree; and (3) Teledyne's investigation, defense of the matters, and corrective actions; and (4) all payments made pursuant to this Consent Decree. Such attorney's fees and related costs shall be separately accounted for by Defendants, and Defendants will not charge such amounts directly or indirectly to any Federal Contract. Any unallowable cost shall be accounted for and included in the base for computation of Teledyne's G&A rate.

28. Teledyne certifies that it does not have insurance coverage against which it can assert a claim for CERCLA Response Costs at the Site and that no residual insurance proceeds

exist from which any such Response Costs could be paid.

XI. Indemnification

29. Teledyne's Indemnification of the United States.

a. The United States does not assume any liability by entering into this agreement. Teledyne shall indemnify, save, and hold harmless the United States and its officials, agents, employees, contractors, subcontractors, or representatives for or from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Teledyne, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on its behalf or under its control, in carrying out activities pursuant to this Consent Decree. Further, Teledyne agrees to pay the United States all costs that the United States incurs, including, but not limited to, attorneys fees and other expenses of litigation and settlement, arising from, or on account of, claims made against the United States based on negligent or other wrongful acts or omissions of Teledyne, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on its behalf or under its control, in carrying out activities pursuant to this Consent Decree. The United States shall not be held out as a party to any contract entered into by or on behalf of Teledyne in carrying out activities pursuant to this Consent Decree. Neither Teledyne nor any such contractor shall be considered an agent of the United States.

b. Teledyne also shall indemnify, save, and hold harmless the United States from any and all claims by the State of Ohio related to environmental conditions existing at the Facility which are to be addressed by the Port (Section VIII) or under Teledyne's Work contingency provision (Section IX) in the event that both the Port and Teledyne fail to achieve Regulatory

Closure in accordance with this Consent Decree. Such claims shall include, but are not limited to, claims for the recovery of Response Costs incurred in connection with the Facility or any action seeking to compel the United States to perform any environmental remediation in connection with the Facility. Further, Teledyne agrees to pay the United States all costs that the United States incurs, including, but not limited to, attorneys fees and other expenses of litigation and settlement, arising from, or on account of, claims made against the United States by the State of Ohio in connection with the Facility as described above.

c. The United States shall give Teledyne notice of any claim for which the United States plans to seek indemnification pursuant to this Paragraph, and shall consult with Teledyne prior to settling such claim.

30. Teledyne waives all claims against the United States for damages or reimbursement, or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between Teledyne and any person for performance of Work under this Consent Decree, including, but not limited to, claims on account of construction delays. In addition, Teledyne shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Teledyne and any person for performance of Work under this Consent Decree, including, but not limited to, claims on account of construction delays.

XII. Dispute Resolution

31. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall apply to any dispute that may arise under this Consent

Decree and be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. However, the procedures set forth in this Section shall not apply to actions by the United States to enforce obligations of Teledyne that have not been disputed in accordance with this Section.

32. Any dispute which arises under or with respect to this Consent Decree shall in the first instance be the subject of informal negotiations between the Parties. The period for informal negotiations shall not exceed 20 days from the time the dispute arises, unless it is modified by written agreement of the Parties. The dispute shall be considered to have arisen when one Party sends the other, in accordance with Section XVIII, a written Notice of Dispute.

33. Statements of Position.

a. In the event that the Parties cannot resolve a dispute by informal negotiations under the preceding Paragraph, then the position advanced by the Navy shall be considered binding unless, within 30 days after the conclusion of the informal negotiation period, Teledyne invokes the formal dispute resolution procedures of this Section by serving on the Navy a written Statement of Position on the matter in dispute, including, but not limited to, any factual data, analysis, or opinion supporting that position and any other supporting documentation relied upon by Teledyne.

b. Within 60 days after receipt of Teledyne's Statement of Position, the Navy will serve on Teledyne its Statement of Position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by the Navy. Within 15 days after receipt of the Navy's Statement of Position, Teledyne may submit a Reply.

34. Formal dispute resolution for all disputes under this Consent Decree shall be conducted pursuant to the procedures set forth in this Paragraph.

a. An administrative record of the dispute shall be maintained by the Navy and shall contain all statements of position, including supporting documentation, submitted pursuant to this Section. Where appropriate, the Navy may allow submission of supplemental statements of position by the Parties.

b. The Deputy Assistant Secretary of the Navy (Environment) ("DASN(E)") will issue a final administrative decision resolving the dispute based on the administrative record described in Paragraph 34.a. This decision shall be binding upon Teledyne, subject only to the right to seek judicial review pursuant to Paragraph 34.c and 34.d.

c. Any administrative decision made by the Navy pursuant to Paragraph 34.b shall be reviewable by this Court, provided that a motion for judicial review of the decision is filed by Teledyne with the Court and served on the United States within 21 days of receipt of the Navy's decision. The motion shall include a description of the matter in dispute, the efforts made by the Parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of this Consent Decree. The United States may file a response to Teledyne' motion.

d. In proceedings on any dispute governed by this Section, Teledyne shall have the burden of demonstrating that the decision of the DASN(E) is arbitrary and capricious or otherwise not in accordance with law. Judicial review of the Navy's decision shall be on the administrative record compiled pursuant to Paragraph 34.a.

35. The invocation of formal dispute resolution procedures under this Section shall

not extend, postpone, or affect in any way any obligation of Teledyne under this Consent Decree not directly in dispute, unless the Navy or the Court agrees otherwise.

XIII. Covenants by the United States

36. In consideration of the actions that will be performed by Teledyne under the terms of this Consent Decree, and subject to the reservations in Paragraphs 37, 38, and 41 the United States covenants not to sue or to take administrative action against Teledyne and TDY Industries, Inc. pursuant to Sections 106 and 107(a) of CERCLA for the recovery of Navy Response Costs and the Work to be performed under this Consent Decree. These covenants not to sue are conditioned upon the satisfactory performance by Teledyne of its obligations under this Consent Decree, including Teledyne's contingent obligation to achieve Regulatory Closure pursuant to Section IX. These covenants not to sue extend only to Teledyne and TDY Industries, Inc. and do not extend to any other person.

37. The United States reserves and this Consent Decree is without prejudice to, all rights against Teledyne and TDY Industries, Inc. with respect to all matters not expressly included within the covenant not to sue in Paragraph 36. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Teledyne and TDY Industries, Inc. with respect to:

a. claims based on a failure by Teledyne to meet any requirement of this Consent Decree, including but not limited to the right to impose administrative penalties or to seek civil penalties pursuant to 42 U.S.C. §9622(l);

b. liability arising from the past, present, or future disposal, release, or threat of release of Waste Material outside of the Facility;

c. liability based upon Teledyne's operation of the Facility, or upon Teledyne's transportation, treatment, storage, or disposal, or the arrangement for the transportation, treatment, storage, or disposal, of Waste Material at or in connection with the Facility, other than as otherwise ordered or approved by the Navy as necessary to achieve Regulatory Closure, after signature of this Consent Decree by Teledyne;

d. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

e. criminal liability;

f. liability for violations of federal, state, or local law which occur during or after performance of the Work;

g. claims for the recovery of any costs that the United States incurs after the Effective Date of this Consent Decree, in the event that Teledyne fails to fulfill its obligations under Section IX of this Consent Decree, and the United States is required to perform all or any portion of the Work necessary to achieve an Ohio Covenant Not to Sue under Ohio Revised Code Chapter 3746;

h. claims in the event that any third party asserts any claim against the United States in connection with Waste Material at or originating from the Facility at any time prior to the Effective Date of this Consent Decree; and

i. any and all rights, defenses, claims, counterclaims, cross-claims and/or causes of action, against Teledyne, its subcontractors, its successors and assigns and past affiliated entities, in the United States Court of Federal Claims or any successor Court or before the Armed Services Board of Contract Appeals or any successor Board, based or dependent upon any rights

or obligations created in any contract and/or contract modification entered into by Teledyne, its successors and assigns and the United States, including the Navy or any other federal department or agency.

38. In addition to the reservations in Paragraph 37, this Consent Decree in no way limits the ability of the United States, through the Environmental Protection Agency, to take any action authorized by law in connection with the Facility, and EPA retains all rights and authority it has pursuant to CERCLA and any other provision of law with respect to the Facility.

39. Work Takeover. In the event the Navy determines that Teledyne has ceased implementation of any portion of the Work, or is implementing the Work in a manner which may cause an endangerment to human health or the environment, the Navy may assume the performance of all or any portions of the Work as the Navy determines necessary. Prior to assuming the Work the Navy will notify Teledyne that it has determined that the conditions of this Paragraph have arisen. Such notice shall provide a brief statement of the reasons for and facts supporting the Navy's determination. The Navy will determine whether Teledyne may continue performing. Costs incurred by the United States in performing the Work pursuant to this Paragraph shall be considered future Response Costs that are not subject to the Navy's Covenant Not to Sue Teledyne and Teledyne shall pay all such costs that are not inconsistent with the National Contingency Plan.

40. Notwithstanding any other provision of this Consent Decree, the United States retains all authority and reserves all rights to take any and all Response Actions authorized by law.

41. Notwithstanding any other provisions of this Consent Decree, the United States

reserves, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel Teledyne and/or TDY Industries, Inc. or their successors and assigns

a. to perform additional Response Actions relating to the Facility, or

b. to reimburse the United States for additional costs of response if, subsequent to the completion of Regulatory Closure, the Navy determines that, either alone or in combination with other relevant information, the following circumstances exist:

(i) conditions, previously unknown to the Navy exist at the Facility indicating that Regulatory Closure is not protective of human health or the environment; or

(ii) information, previously unknown to the Navy indicates, that Regulatory Closure is not protective of human health or the environment or,

(iii) the State of Ohio determines the Ohio Covenant Not to Sue is invalid under Ohio Revised Code 3746.

c. Prior to instituting proceedings in this action or in a new action, or issuing an administrative order, under this Paragraph, the United States shall provide written notice to Teledyne in the event that it determines that any of the conditions specified in this Paragraph have arisen.

42. For purposes of Paragraph 41, the information and conditions known to the Navy shall include that information and those conditions known to the Navy as of the Effective Date of this Consent Decree, along with information provided to the Navy under this Consent Decree by

Teledyne up to the date the certificate of completion is issued by the Navy in accordance with Paragraph 23.

43. Except as provided in Paragraph 36, above, nothing contained in this Decree shall be construed to limit the United States' right to take judicial or administrative action to enforce the federal environmental laws.

XIV. Covenants by Teledyne

44. Subject to the reservations in Paragraph 45, Teledyne, hereby covenants not to sue and shall not assert any claims or causes of action against the United States with regard to the Facility or this Consent Decree for the recovery of Response Costs incurred in connection with the Facility or this Consent Decree, including, but not limited to:

- a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA Sections 106(b)(2), 107, 111, 112, 113, or any other provision of law;
- b. any claims against the United States, including any department, agency or instrumentality of the United States, under CERCLA Sections 107 or 113 related to the Facility;
- c. any claims seeking recovery of Response Costs Teledyne incurs in connection with the Facility, including, but not limited to, claims for contribution or indemnification, against the United States under any state law or common law;
- d. any claims, including, but not limited to, claims for contribution or indemnification, against the United States in the event that the State of Ohio brings any action against Teledyne in connection with environmental response work at the Facility; and
- e. any claims arising out of Response Actions at or in connection with the Facility,

including any claim under the United States Constitution, any state constitution, the Tucker Act, 28 U.S.C. § 1491, the Contracts Disputes Act of 1978, 41 U.S.C. § 601-613, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law.

45. Except as provided in Paragraph 52, these covenants not to sue shall not apply in the event that the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 37(b)-(d), 38, and/or 41, but only to the extent that Teledyne's claims arise from the same response action, Response Costs, or damages that the United States is seeking pursuant to the applicable reservation.

46. As of the Effective Date, Teledyne on behalf of itself, its subsidiaries, officers, directors, agents, employees, successors, insurers, and subcontractors, releases, waives, and abandons any and all past, present, or future claims against the United States, arising under Federal government contracts between the United States and Teledyne, that might otherwise be available to Teledyne in connection with any and all "matters addressed" in this Consent Decree, including, but not limited to equitable adjustment, expenses, attorney fees, compensatory damages, and exemplary damages. Teledyne warrants and represents that no other action or suit with respect to such costs arising out of or related to such contracts is pending or will be filed in or submitted to any other court, administrative agency, or legislative body. Teledyne further warrants and represents that to the best of its knowledge and belief and upon reasonable inquiry it has made no assignment or transfer of all or any part of its rights arising out of or relating to such contracts.

47. Nothing in this Consent Decree shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R.

§ 300.700(d).

XV. Effect of Settlement; Contribution Protection

48. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this Decree may have under applicable law. Each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Facility against any person not a Party hereto.

49. Subject to the reservations in Sections XIII and XIV, the Parties agree, and by entering this Consent Decree the Court finds, that the Navy and Teledyne are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2), for matters addressed in this Consent Decree. The matters addressed in this Decree include the Work and Navy Response Costs.

50. Teledyne agrees that with respect to any suit or claim for contribution brought by them for matters related to this Consent Decree it will notify the United States in writing no later than 60 days prior to the initiation of such suit or claim.

51. Teledyne also agrees that with respect to any suit or claim for contribution brought against it for matters related to this Consent Decree it will notify in writing the United States within 10 days of service of the complaint on them. In addition, Teledyne shall notify the United States within 10 days of service of the judicial or administrative complaint on them. In addition, Teledyne shall notify the United States within 10 days of service or receipt of any

Motion for Summary Judgment and within 10 days of receipt of any order from a court setting a case for trial.

52. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of Response Costs, or other appropriate relief relating to the Facility, Teledyne shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue set forth in Section XIII.

XVI. Access to Information

53. Teledyne and its successors and assigns shall provide to the United States, upon request, copies of all documents and information within its possession or control or that of its contractors or agents relating to past, present, and future releases of Waste Materials at or from the Facility, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work.

54. Business Confidential and Privileged Documents.

a. Teledyne may assert business confidentiality claims covering part or all of the documents or information submitted to the United States under this Consent Decree to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), 48 C.F.R. § 2.101, and Part 4, Subpart 4.4 (“Safeguarding Classified Information Within Industry”). If no claim of confidentiality accompanies documents or information when they are submitted to

the United States, or if the United States has notified Teledyne that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA, the public may be given access to such documents or information without further notice to Teledyne.

b. Teledyne may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Teledyne asserts such a privilege in lieu of providing documents, it shall provide the United States with the following: (i) the title of the document, record, or information; (ii) the date of the document, record, or information; (iii) the name and title of the author of the document, record, or information; (iv) the name and title of each addressee and recipient; (v) a description of the contents of the document, record, or information; and (vi) the privilege asserted by Teledyne. However, no documents, reports, or other information required by this Consent Decree shall be withheld on the grounds that they are privileged.

55. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Facility.

XVII. Retention of Records

56. Until 10 years following the completion of the active remediation portion of the Work required under this Consent Decree, Teledyne shall preserve and retain all non-identical copies of the following documents:

a. Documents required to be maintained under the Resource Conservation and Recovery Act or analogous State hazardous waste laws;

- b. Any administrative notice, administrative or judicial complaint, or notice from party, alleging noncompliance with federal, state, and local environmental laws;
- c. Any judicial or administrative agreement or order, or pre-litigation settlement agreement with a private party, that settles administrative or judicial matters referenced in subparagraph b above;
- d. Any environmental permit allowing discharge of a pollutant to air, water or soil;
- e. Soil, surface water, or groundwater sampling data;
- f. Any environmental inspection report issued by a federal, state, or local agency concerning any environmental media;
- g. Any environmental baseline study, environmental assessment, environmental audit or feasibility study which relate to the environmental condition of the property;
- h. Any document concerning spills or other releases or threats of releases of hazardous substances to the environment; and
- i. Any document concerning potential impacts to natural resources from hazardous substances at the Facility.

This record retention requirement shall apply regardless of any corporate retention policy to the contrary. For purposes of this Paragraph, only, "active remediation" shall not include post-remedial groundwater monitoring or monitoring of natural attenuation.

57. Teledyne hereby certifies that, to the best of its knowledge and belief, after reasonable inquiry, it has not altered, mutilated, discarded, destroyed, or otherwise disposed of any records, documents, or other information (other than identical copies) to documents identified in Paragraph 56 regarding the Facility since notification of potential liability by the

United States or OEPA.

XVIII. Notices and Submissions

58. Each report submitted by Teledyne under this Section shall be signed by an official of the submitting party and include the following certification:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that this document and its attachments were prepared either by me personally or under my direction or supervision in a manner designed to ensure that qualified and knowledgeable personnel properly gather and present the information contained therein. I further certify, based on my personal knowledge or on my inquiry of those individuals immediately responsible for obtaining the information, that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowingly and willfully submitting a materially false statement.

This certification requirement does not apply to emergency or similar notifications where compliance would be impractical.

59. Whenever, under the terms of this Consent Decree, written notice is required to be given or a report or other document is required to be sent by one Party to the other, it shall be directed to the individuals at the addresses specified below, unless notice of a change is given in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of this Consent Decree with respect to the United States, the Navy, and Teledyne, respectively.

Whenever notice or other information is required to given to the United States, it shall be submitted to the following:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DJ # 90-11-2-08320

NAVFAC Midwest
Remedial Project Manager
Environmental Business Line
201 Decatur Ave., Building 1A
Great Lakes, IL 60088-2801

Navy OGC Litigation Office
Attn: Waina J. McFarlane
Affirmative CERCLA Program
720 Kennon Street, S.E.
Building 36, Room 233
Washington Navy Yard, D.C. 20374-5013

Whenever notice or other information is required to given to the Navy, it shall be submitted to the following:

NAVFAC Midwest
Remedial Project Manager
Environmental Business Line
201 Decatur Ave., Building 1A
Great Lakes, IL 60088-2801

Navy OGC Litigation Office
Attn: Waina J. McFarlane
Affirmative CERCLA Program
720 Kennon Street, S.E.
Building 36, Room 233
Washington Navy Yard, D.C. 20374-5013

Whenever notice or other information is required to be given to Teledyne, it shall be submitted to the following:

General Counsel
Teledyne Technologies Incorporated
1049 Camino Dos Rios
Thousand Oaks, CA 91360

XIX. Effective Date

60. The Effective Date of this Consent Decree shall be the date upon which the Consent Decree is entered by the Court.

XX. Retention of Jurisdiction

61. This Court retains jurisdiction over both the subject matter of this Consent Decree and Teledyne for the duration of the performance of the terms and provisions of this Consent Decree for the purpose of enabling either of the Parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or modification of this Consent Decree, or to effectuate or enforce compliance with its terms, or to resolve disputes in accordance with Section XII.

62. If the United States brings an action to enforce this Consent Decree, Teledyne shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

XXI. Appendices

63. The following appendices are attached to and incorporated into this Consent Decree: "Appendix A" is a map of the Facility. "Appendix B" is the MOU entered into between OEPA and EPA Region V.

XXII. Modification

64. No Material Modifications shall be made to this Consent Decree without written notification to and approval of the United States, Teledyne, and the Court. Non-material modifications to the Consent Decree may be made by written agreement between the United States and Teledyne.

65. Nothing in this Decree shall be deemed to alter the Court's power to enforce, supervise, or approve modifications to this Consent Decree.

XXIII. Lodging and Opportunity for Public Comment

66. This Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that the Consent Decree is inappropriate, improper, or inadequate. Teledyne consents to the entry of this Consent Decree without further notice.

67. If for any reason the Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any Party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XXIV. Signatories/Service

68. Each undersigned representative of Teledyne and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such Party to this document.

69. Teledyne hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree unless the United States has notified Teledyne in writing that it no longer supports entry of the Consent Decree.

70. Teledyne shall identify, on the attached signature page, the name, address, and telephone number of an agent who is authorized to accept service of process by mail on its behalf with respect to all matters arising under or relating to this Consent Decree. Teledyne hereby agrees to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including, but not limited to, service of a summons. The Parties agree that Teledyne need not file an answer to the Complaint in this action unless or until the court expressly declines to enter this Consent Decree.

XXV. Final Judgment

71. This Consent Decree and its appendices constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Decree.

72. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment between the United States and Teledyne. The Court

finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Rules 54 and 58 of the Federal Rules of Civil Procedure.

SO ORDERED THIS __ DAY OF _____, 20__.

United States District Judge

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Teledyne Technologies Incorporated, relating to the Naval Weapons Industrial Reserve Plant Toledo.

FOR THE UNITED STATES OF AMERICA

April 24, 2008
Date

RONALD J. TENPAS
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

April 8, 2008
Date

PAMELA R. LEE
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611

April 28, 2008
Date

GUILLERMO "BILL" J. ROJAS (OH 0069882)
Assistant United States Attorney
Northern District of Ohio
Four Seagate, Suite 308
Toledo, OH 43604

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Teledyne Technologies Incorporated, relating to the Naval Weapons Industrial Reserve Plant Toledo.

FOR THE DEPARTMENT OF THE NAVY:

April 4, 2008
Date

Donald Schregardus
DONALD SCHREGARDUS
Deputy Assistant Secretary of the Navy
(Environment)
U.S. Department of the Navy
1000 Navy Pentagon
Washington, DC 20350-1000
Phone: (703) 614-5080

April 4, 2008
Date

Waina J. McFarlane
WAINA J. MCFARLANE
Senior Trial Attorney
Office of the General Counsel Litigation Office
U.S. Department of the Navy
Bldg. 36, Room 233
720 Kennon Street SE
Washington Navy Yard, DC 20374-5013
Phone: (202) 685-7734
Fax : (202) 685-7036

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Teledyne Technologies Incorporated, relating to the Naval Weapons Industrial Reserve Plant Toledo.

FOR TELEDYNE TECHNOLOGIES INCORPORATED

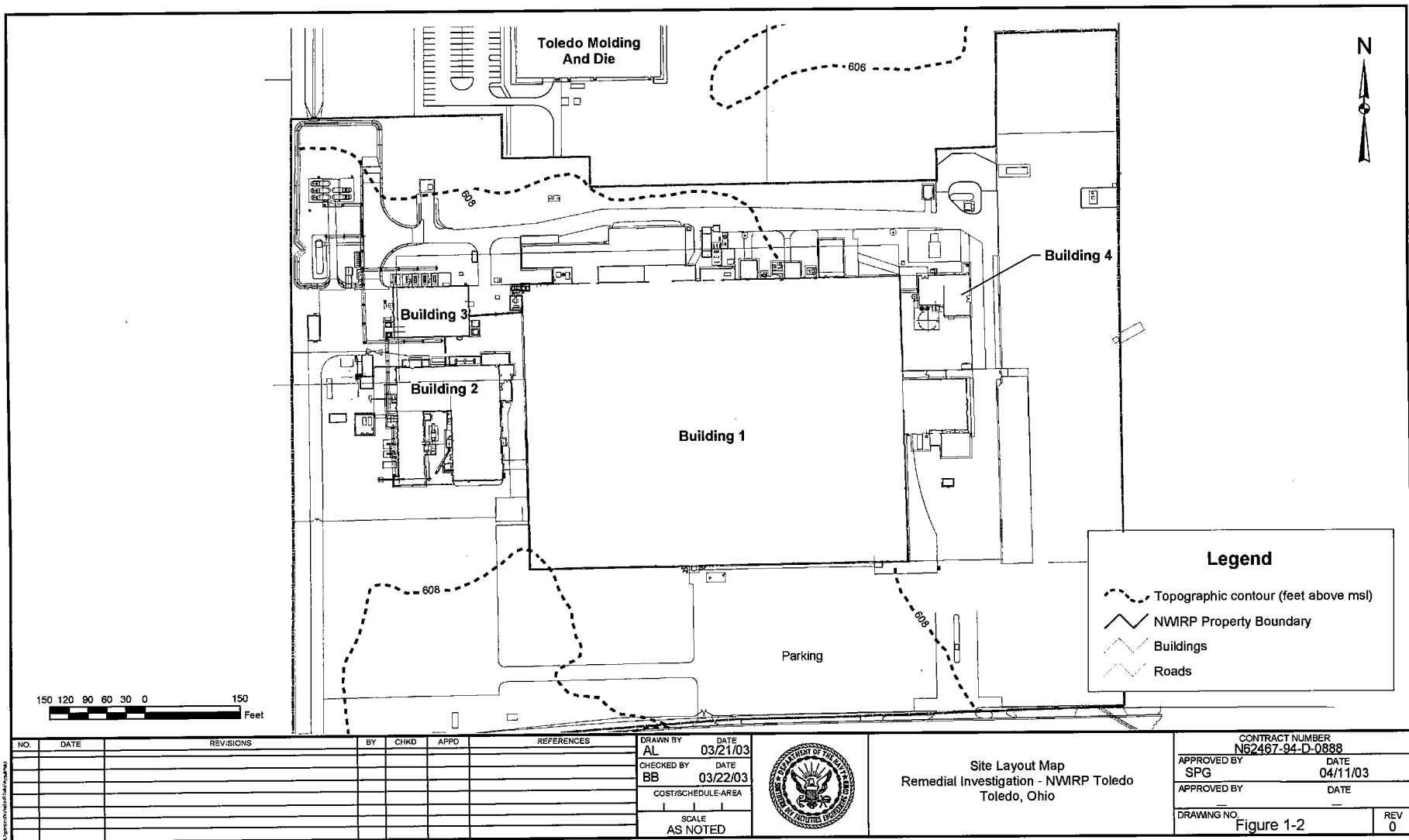
April 1, 2008
Date

JOHN T. KUELBS
Executive Vice President, General Counsel,
and Secretary
Teledyne Technologies Incorporated
1049 Camino Dos Rios
Thousand Oaks, CA 91360

Agent Authorized to Accept Service on Behalf of Above-signed Party:

LOUIS E. TOSI
Shumaker, Loop & Kendrick, LLP
North Courthouse Square
1000 Jackson
Toledo, OH 43604-5573
419-241-9000

Appendix A



Appendix B

DIV. OF EMERGENCY &
REMEDIAL RESPONSE

Memorandum of Agreement
Between the
United States Environmental Protection Agency Region 5 and the
Ohio Environmental Protection Agency

RECEIVED

This Memorandum of Agreement (MOA) is entered into between the Regional Administrator, United States Environmental Protection Agency (U.S. EPA), Region 5, and the Director, Ohio Environmental Protection Agency (Ohio EPA) to move toward implementing the U.S. EPA's One Cleanup Program (OCP) initiative and to promote the cleanup and redevelopment of contaminated or potentially contaminated properties (brownfields) in Ohio. This MOA is intended to help property owners, developers, consultants, public officials, and the general public to understand the roles and responsibilities of U.S. EPA and Ohio EPA and the potential utilization of the MOA track of Ohio EPA's Voluntary Action Program (VAP) to assess and address environmental contamination. This MOA replaces and supersedes the July 31, 2001 Superfund MOA, as amended on July 24, 2004 and February 13, 2006.

I. Purpose and Scope

A. General.

U.S. EPA Region 5 and Ohio EPA agree to exercise their respective legal authorities in order to:

- 1) facilitate timely implementation of the hazardous waste cleanup requirements of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901 et seq. (RCRA); and the environmental cleanup requirements of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601 et seq. (CERCLA, also known as Superfund);
- 2) assist U.S. EPA in meeting the federal Government Performance and Results Act of 1993, Pub. L. No. 103-62, 31 U.S.C. § 1115 et seq. (GPRA) implementation schedule;
- 3) facilitate the cleanup and productive redevelopment of brownfields and other contaminated properties in Ohio;
- 4) meet each agency's mandate to protect human health and the environment; and
- 5) recognize Ohio EPA's MOA Track VAP program for grant funding eligibility purposes under § 128(a) of CERCLA, as amended by the Small Business Liability Relief and Brownfields Revitalization Act, 42 U.S.C. § 9628(a).

B. Applicability.

- 1) Except as provided in paragraph I.B.2) of this MOA, contaminated or potentially contaminated properties (brownfields) in Ohio, including facilities operating under the interim status standards subject to RCRA subtitle C requirements, that are cleaned up under Ohio EPA's oversight and meet both of the following criteria are covered by this MOA:
 - a) MOA Track VAP Participants provide notice to Ohio EPA of entry into the MOA Track of the VAP; and

b) MOA Track VAP participants agree to comply with the procedures and complete the requirements of the MOA Track of the VAP.

2) This MOA does not apply to sites or facilities that are:

- a) subject to hazardous waste closure requirements under a Federally-issued RCRA operating permit or RCRA or ORC Chapter 3734 and rules adopted thereunder; or subject to hazardous waste cleanup requirements under a Federally-issued RCRA operating permit;
- b) listed on U.S. EPA's National Priorities List (NPL), proposed to be listed on the NPL (i.e., publication of notice in the Federal Register), or a site where U.S. EPA, after performance of a preliminary assessment or site inspection and after consultation with Ohio EPA, determines or has determined that the site obtains a preliminary score sufficient for possible listing on the NPL (unless U.S. EPA determines that no further federal action will be taken);
- c) subject to cleanup under the Underground Injection Control Program of the Safe Drinking Water Act or ORC Chapters 6111 or 3734 (not including Class V wells unless required to be cleaned up under an order or a permit);
- d) the subject of federal enforcement or response action under RCRA or CERCLA, including but not limited to an administrative order, a judicial order, a permit, an injunction, a consent decree, or a CERCLA general or special notice letter;
- e) subject to RCRA corrective action via a state or federal permit, order or agreement (not including interim status facilities unless required to perform corrective action under a permit, order or agreement) under RCRA or ORC Chapter 3734 and rules adopted thereunder, i.e., OAC Chapter 3745-55;
- f) subject to solid waste closure requirements under ORC Chapter 3734 and rules adopted thereunder;
- g) subject to Petroleum Underground Storage Tank or Hazardous Substance Storage Tank System assessment, removal or remediation under ORC Chapter 3737 and rules adopted thereunder;
- h) subject to oil or gas well site assessment, removal or remediation under ORC Chapter 1509 and rules adopted thereunder;
- i) subject to state enforcement relating to the release or threat of release of hazardous substances or petroleum under ORC Chapter 3704, 3734 or 6111;
- j) a site for which an investigation has been completed and a remedy has been initiated under ORC Chapter 3746 and rules adopted thereunder; or
- k) subject to requirements for site assessment, removal or remediation pursuant to the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., as amended, or 40 C.F.R. part 761, regarding polychlorinated biphenyls (PCBs) and PCB-contaminated materials or items.

3) For sites or facilities that have completed a voluntary action in compliance with the MOA

Track VAP procedures, ORC Chapter 3746 and OAC Chapter 3745-300 and have received a covenant not to sue (that is still in effect) from the State of Ohio, consistent with the provisions of the Superfund MOA, as amended, U.S. EPA Region 5 does not plan or anticipate taking action under CERCLA or RCRA while that facility remains in compliance with the MOA Track VAP requirements, except as provided in Section IV.B below.

C. Reservation of Rights.

This MOA does not have any legally binding effect, does not create any legal rights or obligations, and does not in any way alter the authority or ability of Ohio EPA or U.S. EPA Region 5 under state or federal law. This MOA does not create any right or benefit, substantive or procedural, enforceable by law or equity against Ohio EPA or U.S. EPA, their officers or employees, or any other person. This MOA, in and of itself, does not relieve any facility from compliance with any applicable requirement of RCRA or the authorized RCRA program. This MOA does not replace or amend the RCRA MOA for Ohio's authorized RCRA program. U.S. EPA Region 5 retains its authority to bring enforcement action under federal law and Ohio EPA retains its authority to bring enforcement action under state law.

Nothing in this MOA modifies federal or state statutory requirements (or regulations promulgated thereunder) or Ohio EPA's agreement to fully implement Ohio's authorized hazardous waste management program under RCRA.

Entry into this MOA makes Ohio EPA eligible for grant funding under CERCLA § 128(a)(1)(A)(ii). However, this MOA does not obligate Federal funds. Any U.S. EPA funding decision will be based on funding priorities specified in U.S. EPA's guidelines for the CERCLA §128 Brownfields State and Tribal Response Program grants. In addition, all activities U.S. EPA may take in furtherance of this MOA are subject to the availability of appropriated funds.

II. Authority

A. Environmental Protection Agency, Region 5.

U.S. EPA Region 5 enters into this MOA in furtherance of its statutory and regulatory responsibilities and authorities under:

- RCRA Subtitle C cleanup requirements, 42 U.S.C. § 6901 et seq.; and
- CERCLA, commonly known as Superfund, 42 U.S.C. § 9601 et seq.

B. Ohio EPA.

Ohio EPA enters into this MOA in furtherance of its statutory and regulatory responsibilities and authorities under:

- ORC chapter 3734 and OAC chapters 3745-50 through 57, 65 through 69, 204, 205, 255, 266, 270, 273 and 279;
- ORC chapter 6111;
- ORC chapter 3746 and OAC chapter 3745-300;
- The MOA Track VAP established pursuant to the Superfund MOA entered by U.S.EPA and Ohio EPA on July 31, 2001, as amended;
- ORC Section 3745.01; and
- Ohio's authority as an authorized state under RCRA, 42 U.S.C. §6926.

III. Background

A. Mandate, Authorization and Purpose.

Ohio EPA and U.S. EPA Region 5 are mandated to protect human health and the environment. U.S. EPA Region 5 and Ohio EPA have worked together cooperatively to facilitate the clean up of contaminated properties and environmental media in Ohio. U.S. EPA has authorized Ohio to administer the base RCRA program and the Corrective Action program. On July 31, 2001, U.S. EPA Region 5 and Ohio EPA entered into the Superfund MOA. The Superfund MOA established the MOA Track of the VAP with additional oversight and public participation requirements that enabled U.S. EPA to clarify the intentions and expectations of U.S. EPA Region 5 and Ohio EPA with respect to sites potentially subject to CERCLA and addressed by Ohio EPA. The Superfund MOA was subsequently amended on July 24, 2004 and February 13, 2006. The MOA Track VAP requirements are described in detail in Ohio EPA's MOA Track Program Support Document and in the MOA Track Procedures for Participation available at Ohio EPA's web site: <http://www.epa.state.oh.us/derr/vap/moa/mo.html>.

U.S. EPA Region 5 and Ohio EPA acknowledge the potential benefits that can be achieved by clarifying the intentions and expectations of U.S. EPA Region 5 and Ohio EPA regarding the cleanup and reuse of contaminated properties that are addressed by Ohio EPA under Ohio law. To the extent possible, U.S. EPA Region 5 and Ohio EPA seek to facilitate the productive reuse of industrial and commercial properties in Ohio by minimizing regulatory impediments to the acquisition, cleanup, transfer and appropriate use or reuse of those properties. This MOA is intended to implement the efficiencies and innovations contained in U.S. EPA's OCP initiative and to achieve cleanups that comply with federal cleanup requirements.

B. General One Cleanup Program Goals.

Ohio EPA and U.S. EPA Region 5 acknowledge their mutual respect, positive working relationship, and commitment to the successful implementation of this MOA. In particular, Ohio EPA and U.S. EPA Region 5 seek to clarify the roles and responsibilities of U.S. EPA Region 5 and Ohio EPA with respect to contaminated properties, so as to increase the number of cleanups and improve the timeliness and efficiency of cleanups that will protect human health and the environment by:

- 1) supporting the use of Ohio EPA's MOA Track VAP at properties where this approach is appropriate for achieving timely and protective cleanups;
- 2) providing coordinated and consistent technical assistance and information to facilitate informed decisions by property owners, prospective purchasers, lenders, public and private developers, consultants, local governments, public officials and the general public;
- 3) ensuring that timely cleanup of sites and facilities protects human health and the environment, and promotes revitalization of contaminated property for appropriate use;
- 4) facilitating the effective use of all available authorities and resources in ways that are mutually complementary and not redundant to increase the pace, efficiency and quality of cleanups; and
- 5) promoting processes by which cleanups that are carried out under state authority are performed in a manner that is consistent with federal objectives and complies with requirements for the site, facility or media of concern.

C. Specific RCRA Corrective Action and CERCLA Cleanup Program Goals.

Ohio EPA and U.S. EPA Region 5 intend to ensure that the following RCRA Corrective Action and CERCLA Cleanup program goals are met at sites or facilities addressed by this MOA:

- 1) For facilities subject to RCRA Corrective Action requirements, Ohio EPA and U.S. EPA Region 5 intend to:
 - a) require the owner or operator (or other parties acting on their behalf) to conduct facility-wide assessments to determine the full nature and extent of all releases of hazardous wastes or hazardous constituents;
 - b) ensure that all releases of hazardous wastes or hazardous constituents into the environment from all Solid Waste Management Units and Areas of Concern are addressed (on and off-site) where necessary to protect human health and the environment;
 - c) provide meaningful opportunities for public involvement throughout the cleanup process; and
 - d) ensure that remedies are protective of human health and the environment.
- 2) For sites that may be subject to CERCLA cleanup requirements, Ohio EPA and U.S. EPA Region 5 will work together to ensure that adequate and timely investigation and cleanup of brownfield sites are conducted, consistent with reasonably anticipated future use, to ensure that the necessary environmental response actions are taken in accordance with applicable federal and state law and are protective of human health and the environment.

IV. OCP Implementation

A. Program Adequacy and Relevant State Authorities.

- 1) Background.
 - a) U.S. EPA Region 5 recognizes that Ohio EPA has successfully facilitated cleanups at sites and facilities subject to federal environmental cleanup authorities.
 - b) In particular, Ohio EPA's Division of Emergency and Remedial Response is responsible for implementing the state's portion of the federal CERCLA program and for implementing brownfields initiatives, state response initiatives, and the MOA Track VAP. Ohio EPA's Division of Hazardous Waste Management is responsible for implementing the RCRA Subtitle C Corrective Action program. Ohio EPA's various programs, laws, and regulations enable Ohio EPA to achieve appropriate environmental remediation objectives and program goals as listed in Section III of this MOA.
 - c) Where appropriate, Ohio EPA intends to use the process provided in the MOA Track VAP and the standards provided in the VAP rules, found at OAC chapter 3745-300, for facilities and sites addressed by this MOA that may be subject to the RCRA Subtitle C Corrective Action program or CERCLA.
- 2) Evaluation of Ohio EPA's MOA Track VAP under CERCLA Section 128(a).
 - a) U.S. EPA Region 5 has evaluated the MOA Track VAP for purposes of grant eligibility

under CERCLA § 128(a) and determined that the MOA Track VAP includes each of the four elements of a state response program as described in CERCLA § 128(a)(2). Ohio EPA agrees to maintain all of these elements for the MOA Track VAP as follows:

- i) Timely survey and inventory of Brownfields sites in Ohio. Ohio EPA has initiated efforts to evaluate all previously identified brownfields sites to determine the priority of those sites for follow up. In addition, Ohio EPA is undertaking an initiative to locate historic brownfields properties not previously identified, in cooperation with local governments.
- ii) Adequate oversight and enforcement authorities and resources. Cleanups under the MOA Track VAP will result in timely and appropriate response actions that protect human health and the environment and are conducted in accordance with applicable state and federal laws. Ohio EPA has adequate enforcement resources and authority to ensure timely completion of response actions, including operation and maintenance or long-term monitoring if the responsible party fails or refuses to complete the required actions. If Ohio EPA determines, either through an audit or a property inspection, that a property which has been issued a covenant not to sue under the VAP does not meet applicable standards or that institutional or engineering controls have failed, Ohio EPA is obligated to insure that applicable standards are achieved or to revoke the covenant pursuant to ORC Section 3746.12(B).
- iii) Mechanisms and resources to provide meaningful opportunities for public participation. Ohio EPA's MOA Track VAP sets forth a process for public participation in cleanup decisions, the public has access to site-specific documents that Ohio EPA will rely on in making cleanup decisions or conducting site activities, and such documents regarding the site or facility cannot be withheld under any State audit law privileges.
- iv) Mechanisms for approval of cleanup plans and verification of completed response actions. U.S. EPA Region 5 has determined that the MOA Track VAP provides for Ohio EPA review of all Phase I and Phase II Property Assessment Reports, Sampling Plans, Risk Assessment Reports, proposed Remedial Action Work Plans, no further action letters and requests for covenants not to sue, and provides for Ohio EPA's written decisions approving or disapproving the investigation and cleanup activities. U.S. EPA Region 5 has also determined that a party's participation in the MOA Track VAP does not prevent Ohio EPA from taking enforcement action concerning such party's failure to make progress under the MOA Track VAP prior to receipt of a state Covenant Not to Sue, or concerning such party's failure to meet ongoing compliance obligations, or to address releases that were not disclosed during the MOA Track VAP process.

b) U.S. EPA Region 5 has reviewed and evaluated the MOA Track VAP and determined that it provides adequate access to information and meets the public record requirement described in CERCLA Section 128(b)(1)(C). In accordance with the Ohio Public Records Law, Ohio EPA will continue to maintain its files and make its public records available to the public.

3) Recognition of MOA Track VAP and standard-setting processes and standards.

a) Based on the assessment of Ohio EPA's capabilities and authorities as listed above, U.S. EPA Region 5 has determined that the standards and processes used in the MOA Track VAP are adequate, and that active coordination between Ohio EPA's RCRA

Corrective Action and Remedial Response programs and the MOA Track VAP will result in cleanups that meet the objectives and requirements of the RCRA Subtitle C Corrective Action program and CERCLA for facilities and sites subject to this MOA.

b) Ohio EPA acknowledges its responsibility with respect to RCRA Corrective Action and CERCLA to ensure that any party participating in the MOA Track VAP will comply with the requirements of the MOA Track VAP as approved by this MOA.

c) U.S. EPA Region 5 has reviewed and evaluated the Ohio EPA's MOA Track VAP program, rules, public record and participation requirements and guidances, and has determined that the MOA Track VAP program is adequate to ensure that the federal objectives identified in Section III.C. are met at sites subject to this MOA.

B. Future EPA Action.

1) Generally, U.S. EPA Region 5 does not plan or anticipate taking action under the authorities listed in Section II.A at a site or facility subject to this MOA as described in Section I.B. and being addressed or overseen by Ohio EPA while that site or facility remains in compliance with the MOA Track VAP and the authorities listed in Section II.B. except where one or more of the following circumstances apply:

a) Ohio EPA requests that U.S. EPA Region 5 provide assistance in the performance of a response action or information provided by Ohio EPA indicates that a site or facility is not making progress under the MOA Track VAP, that a site or facility has not continued to meet the standards or conditions of its covenant not to sue from Ohio EPA, or that corrective action is necessary for releases that were not disclosed during the MOA Track VAP process;

b) U.S. EPA Region 5 determines that contamination has or will migrate across the state line, or U.S. EPA Region 5 determines that contamination has migrated or is likely to migrate onto property subject to the jurisdiction, custody, or control of a department, agency, or instrumentality of the United States and may impact the authorized purposes of the federal property;

c) after considering the response activities already taken at the site or facility, U.S. EPA Region 5 determines under the authorities listed in Section II.A. that the site or facility may present an imminent and substantial endangerment to public health or welfare or the environment;

d) Ohio EPA fails to respond in a timely manner to a known situation where institutional controls, engineering controls, land use restrictions, or other conditions placed on a property as required by the remedy approved by Ohio EPA are no longer protective of public health or the environment, given the current conditions at the property, except where inconsistent with CERCLA § 128;

e) the site or facility owner or operator fails to implement a course of action required by Ohio EPA; or

f) U.S. EPA Region 5, after consultation with Ohio EPA, determines that information not known by Ohio EPA at the time a covenant not to sue from Ohio EPA was granted has been discovered regarding the contamination or conditions at the site or facility such that the contamination or conditions at the site or facility present a threat requiring further remediation to protect public health or welfare or the environment.

- 2) CERCLA § 128(b) provides limitations regarding federal enforcement actions at "eligible response sites," as defined in CERCLA § 101(41), that are being addressed in compliance with a state program that (1) specifically governs response actions for the protection of public health and the environment and (2) maintains and updates at least annually a public record, as required by CERCLA § 128(b)(1)(C). These limitations operate as a matter of law and are subject to the exceptions listed in CERCLA § 128(b). Thus, subject to the exceptions provided in CERCLA § 128(b), U.S. EPA does not plan or anticipate taking an administrative or judicial enforcement action under CERCLA §§ 106(a) or 107(a) against a person regarding a specific release at an eligible response site that is being addressed by that person in compliance with the MOA Track VAP.

C. Coordination Between Ohio EPA and U.S. EPA Region 5.

- 1) U.S. EPA Region 5 and Ohio EPA have developed a process for prioritizing sites or facilities and determining which agency is primarily responsible for a particular site or facility. U.S. EPA Region 5 and Ohio EPA will continue to communicate frequently regarding RCRA Subtitle C Corrective Action facilities, CERCLA sites, and overall program implementation. As part of this process, Ohio EPA or U.S. EPA Region 5 may request, and U.S. EPA Region 5 or Ohio EPA may transfer to the other Party to this MOA, primary responsibility for overseeing activities at a federal or state-lead site or facility within the legal parameters of that program. U.S. EPA Region 5 and Ohio EPA will continue to implement and improve this process.
- 2) Frequent communication between U.S. EPA Region 5 and Ohio EPA is critical to the success of this MOA. U.S. EPA Region 5 and Ohio EPA will continue to share information on sites or facilities, implementation priorities, new program initiatives, cleanup criteria decisions, federal grant opportunities and other relevant issues.
- 3) In order to achieve this level of communication, Ohio EPA and U.S. EPA Region 5 will conduct semi-annual meetings or telephone conferences to discuss progress in implementing this MOA, Ohio EPA's overall cleanup program, achieving state and federal commitments, funding opportunities and facility- or property-specific concerns.
- 4) On an annual basis, Ohio EPA will report to U.S. EPA Region 5 on the following:
 - a) number of sites or facilities that have entered the MOA Track in the previous year;
 - b) number of sites or facilities for which No Further Action Letters (NFAs) have been issued under the VAP and consistent with the MOA Track procedures in the previous year;
 - c) number of sites or facilities for which covenants not to sue (CNSs) have been issued under the VAP and consistent with the MOA Track procedures in the previous year;
 - d) location and address, and U.S. EPA Identification Number, if applicable, of sites or facilities for which a covenant not to sue has been issued under the VAP MOA Track and subsequently revoked;
 - e) number of sites or facilities for which NFAs and CNSs have been issued under the VAP, but not in accordance with the MOA Track procedures (i.e., conventional VAP), in the previous year;
 - f) number of VAP sites audited;

g) location and address, and U.S. EPA Identification Number, if applicable, of each site or facility in the MOA Track; and

h) status of each site or facility in the MOA Track (i.e., where each site is in the process).

V. Entry, Modification and Termination

This MOA has been developed by mutual cooperation and consent and hereby becomes an integral part of the working relationship between U.S. EPA Region 5 and Ohio EPA.

U.S. EPA Region 5 enters into this MOA based upon review of Ohio EPA's cleanup criteria and processes. Ohio EPA agrees to provide U.S. EPA Region 5, and U.S. EPA Region 5 agrees to provide Ohio EPA, with prompt notice of significant changes to the laws, regulations, and guidance and practices relevant to this MOA. Ohio EPA and U.S. EPA Region 5 agree to review this MOA, if U.S. EPA promulgates new regulations or develops relevant guidance after the effective date of this MOA.

This MOA may be modified only by the mutual written agreement of Ohio EPA and U.S. EPA Region V. This MOA may be terminated either by the mutual written agreement of Ohio EPA and U.S. EPA Region V, or forty-five (45) days after receipt by a signatory to this MOA (or his or her successor) of written notice of termination signed by the other signatory to this MOA (or his or her successor).

For the Ohio Environmental Protection Agency

Chris Korleski
Director
Ohio EPA

Date 11/5/07

For the U.S. Environmental Protection Agency, Region 5

Mary A. Gade
Regional Administrator
U.S. EPA Region 5

Date 11/08/07

CONCURRENCE OF OECA

The U.S. Environmental Protection Agency Office of Enforcement and Compliance Assurance (OECA) concurs with the execution of the Memorandum of Agreement Between the United States Environmental Protection Agency and the Ohio Environmental Protection Agency concerning use of the Ohio MOA-Track Voluntary Action Program to facilitate timely implementation of corrective action requirements.

Date: 9-24-07

Granta Y. Nakayama
Assistant Administrator
Office of Enforcement and Compliance Assurance

CONCURRENCE OF OSWER

The U.S. Environmental Protection Agency Office of Solid Waste and Emergency Response (OSWER) concurs with the execution of the Memorandum of Agreement between the United States Environmental Protection Agency and the Ohio Environmental Protection Agency concerning use of the Ohio MOA-Track Voluntary Action Program to address environmental contamination.

Date: 9-12-07

Susan Parker Bodine
Assistant Administrator
Office of Solid Waste and Emergency Response